

## Technical Guidance

# Pesticides Act and Ontario Regulation 63/09 Tree Care Specialist

May 2011

### Purpose

This technical guidance provides regulatory information for tree care specialists. Ontario's cosmetic pesticides ban took effect April 22, 2009. The requirements of the ban are detailed in the Pesticides Act, which was amended by the Cosmetic Pesticides Ban Act, 2008 and in Ontario Regulation 63/09 (O. Reg. 63/09).

### Classification of pesticides

A pesticide product must be registered by Health Canada's Pest Management Regulatory Agency and classified by the Ministry of the Environment (MOE) to be sold and used in Ontario (please refer to s.6 of the Pesticides Act and s.9 of O. Reg. 63/09). Products must be used according to label directions and for purposes allowed under the ban.

As set out in subsection 4(5) of O. Reg. 63/09, Ontario has established a pesticide classification system consisting of eleven classes under provincial legislation as set out below.

- Class 1 pesticides are products intended for manufacturing purposes
- Class 2, 3 and 4 pesticides are restricted or commercial products
- Class 5 and 6 pesticides are domestic products intended for household use
- Class 7 pesticides are controlled sale products (domestic or restricted)
- Class 8 pesticides are domestic products that are banned for sale and use
- Class 9 pesticides are ingredients in products for use only under exceptions to the ban
- Class 10 pesticides are ingredients in products for the poisonous plant exception
- Class 11 pesticides are ingredients in products for cosmetic uses under the ban

### Arboriculture Exception

There is an [exception to the cosmetic pesticides ban](#) to the use of a Class 9 pesticide to maintain the health of trees in treed areas not exceeding one hectare in size. This exception does not include pests damaging the fruit of a tree since these pests would not impact the health of the tree.

A person who is authorized to use a pesticide product containing a Class 9 pesticide must obtain a written opinion from a qualified tree care specialist

indicating the use is necessary, as part of an integrated pest management strategy, to maintain the health of a tree or trees. The written opinion is for that specific extermination.

A qualified tree care specialist must have one of the following qualifications:

- Be certified as an arborist by the International Society of Arboriculture.
- Be registered as a member under the Professional Foresters Act.
- Hold an applicable certificate of qualification under the Apprenticeship and Certification Act.
- Have qualifications considered equivalent to those listed above by the Director under the Pesticides Act.

A written opinion of a qualified tree care specialist must be obtained before:

- Owners, occupiers or their full-time employees can use a Class 5, 6 or 7 product that contains a Class 9 pesticide if applied directly to the tree.
- A person who holds a landscape exterminator licence can use a Class 2, 3, 4, 5, 6 or 7 product that contains a Class 9 pesticide when applied directly to the tree.
- A person who holds a landscape exterminator licence can use a Class 2, 3, or 4 product that contains a Class 9 pesticide when injected into a tree.

A written opinion of a qualified tree care specialist is not required to use a Class 5, 6 or 7 product that contains a Class 9 pesticide that is an injection into a tree.

The written opinion provided by the qualified tree specialist should provide the following information:

- The name of the pest that is impacting the health of the tree or trees.
- The injury that is or will likely occur due to the presence of the pest.
- The integrated pest management principles that have been applied in coming to the opinion that a Class 9 pesticide is necessary in order to maintain the health of the tree.
- A statement that a Class 9 pesticide is necessary in order to maintain the health of the tree and that the opinion is intended for that specific extermination only. Depending on label directions of the product containing the Class 9 pesticide it may allow for repeated use during the season in order to manage the pest problem.
- The name, signature, date and qualifications of the qualified tree specialist.

The qualified tree specialist may refuse to provide an opinion if he or she determines that the use of a Class 9 pesticide is not necessary to maintain the health of the tree.

Under this exception, any person who intends to use a Class 9 pesticide must

provide a written notice to the occupants of all residential properties that abut the application area. The tree is considered to be the application area.

### **Compliance and Enforcement**

To report non-compliance of pesticide use, please contact your [MOE District Office](#) during regular business hours. After business hours, call the MOE's Pollution Hotline at 1-866-MOE-TIPS (1-866-663-8477).

### **For more information:**

Visit the MOE web site for additional information on topics such as:

- [Pesticide signage](#)
- Factsheet Pesticides Act and Ontario Regulation 63/09 Private Land and Woodlot Owners
- Technical Guideline Pesticides Act and Ontario Regulation 63/09 Landscape Licensed Exterminators

A number of fact sheets and suggestions on caring for lawns and gardens are available on the [MOE's website](#) for specific audiences.

Questions about the cosmetic pesticides ban can be directed to the MOE's Public Information Centre at 1-800-565-4923 or 416-325-4000 (press 0 to talk to an information officer).

This technical guideline is for informational purposes only and should not be construed as legal advice. Interested parties are advised to refer to the Pesticides Act and Ontario Regulation 63/09 to address specific circumstances.

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